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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,287	11/18/2005	Osamu Otaka	VPM-00401	8520
54/004 7590 12/09/2008 MUIRHEAD AND SATURNELLI, LLC 200 FRIBERG PARKWAY SUITE 1001 WESTBOROUGH, MA 01581				
EXAMINER				
EL-ZOOBI, MARIA				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/557,287

## Applicant(s)

OTAKA ET AL.

## Examiner

MARIA EL-ZOOBI

## Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 08/27/2008 have been fully considered but they are not persuasive.

Applicant argues that Mault is silent as to the use of an instruction from an application program that is received by a control mechanism concerning the code data that is to be obtained, the control mechanism controlling functionality of obtaining, storing or analyzing the code image and code data, which code data is then used in the execution of the application program. Also Applicant argues that, Mault discloses providing food identifiers, determined from food images, to create a diet log and does not disclose the use of any instruction from an application program that is used in connection with the obtaining, storing or analyzing of the images. Examiner respectfully disagrees.

Mault discloses a code data (Paragraph 0046-0047; the scanned barcode, food identifier, product code, food name and a like); these code data is being obtained by a communication device (Paragraph 0038) with an imaging system (Paragraph 0039-0040 and 0048), the code image and code data is being stored and analyzed (Paragraph 0040, 0046, 0049 and 0051, code data could be transmitted with the image data); the code data is used to execute application program ( the code data is being used to create the proper diet program , a software application program executed to present a menu of diet log option Paragraph 0043, 0054, 0081-0083).

Applicant also refers in the argument to the beginning on page 19 of originally filed specification to argue Mault's reference, however, the example that the Applicant refers

to is not in the claim language. Examiner maintains the rejection.

**2. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 8-12, 14-18 and 20 are rejected under 35 U.S.C. 102(b) as being unpatentable by Mault (US 20020047867).

Regarding claim 1, Mault discloses, a mobile communication terminal (Paragraph

0038) comprising:

image shooting means for shooting an image (Paragraph 0039 and Fig. 1A, el. 12)

image data memory means for storing data of a code image shot by said image shooting means (Paragraph 0040 and 0046 and 0080; an image of barcode is captured and save in the memory)

image data analyzing means for analyzing the data of the code image to obtain code data from the code image (Paragraph 0046, 0049, 0077 and 0081-0086; the analyzing could be perform in the PDA or the communication device)

control means for controlling said image shooting means and said image data memory means (Paragraph 0040 and Fig. 1B, el. 24) and

application program executing means for executing an application program using the code data (Paragraph 0043,0047; the code data will be used to create a diet log using the software application)

wherein said control means can control the at least one of said image shooting means, said image data analyzing means and said image data memory means based on a control request instruction sent from said application program executing means that is executing the application program (Paragraph 0040 and 0043, so based on a request from the processor that execute the application program, the controller will initiate the capture of the image and then store it), wherein the control request instruction correspond to the code data (Paragraph 0043, 0052, 0049; the controller will execute the software application based on the code data; i.e., create the diet log based

on the nutrition of this item).

Regarding claim 2, Mault discloses, analysis data memory means for memorizing data of an analysis result obtained from said image data analyzing means (Paragraph 0080), wherein

said control means can control said image data analyzing means and said analysis data memory means along with said image shooting means and said image data memory means, based on the control request instruction (Paragraph 0045-0046; the user has a selection menu where he can initiate a request to perform a desired action, so when a user selects an option a signal transmitted to the processor Paragraph 0040 to control the mentioned parts).

Regarding claim 3, Mault discloses, said control means includes plural types of reading control modes used when the code image is shot and data analysis is performed, and selects, based on the control request instruction, a reading control mode from the plural types of reading control modes and performs the control based on the selected reading control mode (Paragraph 0017 and 0021, lines 1-3; there are different type of reading control mode depending on the type of code which is being record by the imaging system, i.e., an alphanumeric code, a barcode, a product code, etc., also the system is able to take two-dimensional image, so when the user send a control request instruction "by selecting from the presented menu" Paragraph 0045 and 0040, then use the UPC to interpreted the product and use this information in many ways, for example see Paragraph 0055).

Regarding claim 4, Mault discloses, said analysis data memory means can store data of a plurality of analysis results (Paragraph 0080-0081; the information from analyzing the code image can be stored, this info may include for example, a product name, nutrition info and a like) and

said control means performs the control so that data of the analysis results is read from said analysis data memory means and the data is passed to said application program executing means, based on the control request instruction (Paragraph 0081 0043, 0019 and 0020; so after the code image of an item is taken, analyzing the code image to identify the item then the analyzed result will be transferred to the application program for further processing, for example creating a log diet or calculate the calories; it is inherent that mentioned process is performed based on the request instruction, the user will decide what application program will use based on his/her needs).

Regarding claim 5, Mault discloses, said image data analyzing means has plural types of code image recognition processing functions for data analysis of a code image (Paragraph 0077; there are different types of "image recognition" algorithms and since the image could be a code image then the limitation is met) and

performs data analysis on the code image using a code recognition processing function selected from the plural types of image recognition processing functions and said control means performs the control so that the code recognition

processing function is selected based on the control request instruction (Paragraph 0081; analyze the barcode image using image analysis software which uses an image recognition algorithm, see Paragraph 0077).

Regarding claim 8, Mault discloses, a mobile communication terminal (Paragraph 0038) comprising: an imaging device that obtains a code image (Paragraph 0039 and 0046)

a memory coupled to the imaging device that stores the code image (Paragraph 0080 and 0046)

an analyzer coupled to the memory that analyzes the code image and obtains code data from the code image (Paragraph 0046; barcode is used to as UPC to obtain product name, 0080-0083)

a processor coupled to the analyzer that executes an application program wherein the processor executes the application program using the code data (Paragraph 0043, 0047 and 0080-0083; the code data will be used to create a diet log using the software application) and

a controller coupled to at least one of: the imaging device, the memory and the analyzer (Fig. 1) wherein the controller controls the at least one of: the imaging device, the memory and the analyzer according to information received from the application program, wherein the information corresponds to the code data (Paragraph 0040 and 0043, so based on a request from the processor that executes the application program, the controller will initiate the capture of the image and then store it and Paragraph 0043,



0052, 0049; the controller will execute the software application based on the code data; i.e., create the diet log based on the nutrition of this item).

Regarding claim 9, Mault discloses, wherein the application program is stored in the memory (Paragraph 0081-0082).

Regarding claim 10, Mault discloses, wherein the code image is analyzed by the analyzer according to information provided to the analyzer by the application program (Paragraph 0081-0082).

Regarding claim 11, Mault discloses, a display that displays information received from the application program corresponding to the code data (Paragraph 15-16, 0019 20 and 0082)

Regarding claim 12, Mault discloses, a communication device, wherein the communication device provides communication between the mobile communication terminal and a mobile phone network (see Fig. 5; the mobile able to communicate with a remote computer system to send and receive data, also see Fig. 2 the option receive transmission).

Regarding claim 14, Mault discloses, wherein the application program is provided to the mobile telecommunications terminal via the mobile phone network using the communication device (Paragraph 0051; Mault suggests that the image is being transferred to a remote server, wherein application program will create the diet log and

send the data to the mobile terminal).

Regarding claim 15, Mault discloses, wherein the controller performs a plurality of code images to be obtained and stored, wherein each code image includes an image portion that includes code data for at least one of: an image file, a sound file, and a program file (Paragraph 0084).

Regarding claim 16, see claim 1 and 8.

Regarding claim 17, Mault discloses, selecting a control mode based on the information sent from the application program, wherein the control mode is selected from a plurality of types of control modes that correspond to at least one of: the obtaining of the code image, the storing of the code image and the analyzing of the code image (Paragraph 0054-0055).

Regarding claim 18, Mault discloses, wherein the code image is analyzed according to information provided by the application program (see claim 1 and 2 analysis).

Regarding claim 20, see claim 15 analysis.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mault (US 2002/0047867) in view of Algazi (US Publication 2002/0083022).

Regarding claim 6, Mault discloses, the code image can have a supplemental information that can be in associating with the code image (Paragraph 0084 and 0085) and that the user uses the data of the analysis result in the application program.

Mault does not disclose that the code image has an image portion in which use permission/non-permission information is coded, the information specifying whether to permit a use of the data of the analysis result in the application program, and said control means determines whether to pass the data of the analysis result to said application program executing means, based on the use permission/non-permission information contained in the data of the analysis result.

Algazi discloses, that the code image (Barcode) could be associated with a code that will be used as a key to access information, in other words to give the user the permission/non permission for getting extra information about the product. (Paragraph 0026).

Therefore, it would have been obvious to one with ordinary skill in the art, at the

time the invention was made, to modify Mault with the teaching of Min in order to enable only the user who subscribe a service from obtaining information about the desired product.

Regarding claim 13, wherein the code data includes permission/non-permission information indicating a permitted/non-permitted use of the code data by the application program (see claim 6 analysis).

Regarding claim 19, see claim 6 analysis.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mault (US 2002/0047867) in view of Yamaguchi (20030198383).

Regarding claim 7, Mault discloses wherein said control means performs the control so that a plurality of code images are shot and stored (Paragraph 0007; so more than one image can be recorded)

Mault also discloses that an image could have an image portion that has a sound file, which is provided as supplemental data with the image file (Paragraph 0084) and that the images are captured, analyzed then send to the application program executing means for further implementation.

Mault is silent about that the image portion includes binary data.

Yamaguchi discloses that the information in the code image is coded into binary data (Paragraph 0055, 0068 and also see Fig 3 and Fig. 5).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to m modify Mault with Yamaguchi teaching in order to

provide binary data in the captured image so to enable the transmission of said captured image over wireless communication links.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIA EL-ZOOBI whose telephone number is (571)270-3434. The examiner can normally be reached on Monday-Friday (8AM-5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2614

/M. E./

Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614